

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

American Heritage International, Inc., )  
 )  
 Plaintiff, )  
 vs. )  
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 Ali Sarabi; GOO, LLC, )  
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 Defendants. )  
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Case No.: 2:15-cv-0101-GMN-CWH

**ORDER**

Pending before the Court are the Motion for a Temporary Restraining Order, (ECF No. 2), and Motion for a Preliminary Injunction, (ECF No. 5), filed by Plaintiff American Heritage International, Inc. (“American Heritage”). For the reasons set forth below, the Court will deny these Motions without prejudice.

This case centers upon allegations that Defendants Ali Sarabi and Goo, LLC have, *inter alia*, committed cybersquatting and trademark infringement through the creation and operation of the web sites <AHECIGS.COM> and <AHCIGS.COM>. (Compl., ECF No. 1).

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Injunctive relief is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Id.* at 22.

In the Ninth Circuit, “actual irreparable harm must be demonstrated to obtain a permanent injunction in a trademark infringement action.” *Herb Reed Enterprises, LLC v. Florida Entm’t Mgmt., Inc.*, 736 F.3d 1239, 1249 (9th Cir. 2013) *cert. denied*, 135 S. Ct. 57

1 (2014). “[T]he irreparable harm requirement for a permanent injunction in a trademark case  
2 applies with equal force in the preliminary injunction context.” *Id.*; *see also Titaness Light*  
3 *Shop, LLC v. Sunlight Supply, Inc.*, No. 13-16959, 2014 WL 5017851, at \*1 (9th Cir. Oct. 8,  
4 2014) (“The fact that [the plaintiff’s] reputation *might* be harmed by the marketing of [the  
5 defendant’s] products did not establish that irreparable harm to [the plaintiff’s] reputation is  
6 *likely*.”) (emphasis in original). Accordingly, while “loss of control over business reputation  
7 and damage to goodwill could constitute irreparable harm,” a court’s finding of such harm  
8 cannot be “grounded in platitudes rather than evidence.” *Herb Reed*, 736 F.3d at 1250.

9 Here, Plaintiff has failed to present any evidence demonstrating a likelihood of  
10 irreparable harm. Instead Plaintiff merely argues that:

11 Defendants are in fact using Plaintiff’s Marks in order to try to  
12 wrongfully assume the business identity of Plaintiff and defraud  
13 consumers. Defendants are using Plaintiff’s Marks as the material  
14 elements of Defendants’ Infringing Website to confuse and deceive  
15 those seeking the Plaintiff’s goods into incorrectly believing  
16 Defendants’ Infringing Website is Plaintiff’s website when it is not.  
17 Defendants are defrauding customers who are seeking the electronic  
18 cigarettes made and sold by Plaintiff into thinking that they are  
19 purchasing such products from Plaintiff when in fact they are not.  
20 Defendants have wholly copied Plaintiff’s Marks for the intentional  
21 and malicious purpose of stealing Plaintiff’s business, including the  
22 reputation and goodwill that Plaintiff has been able to build up  
23 during its two years in business.

24 (Mot. for TRO 15:28-16:9, ECF No. 2).

25 Upon reviewing the photographs of the allegedly infringing web site, (Ex. 2 to Mot. for  
TRO, ECF No. 2-2), the Court agrees that there is a strong possibility that consumers could  
incorrectly associate the products and services of <AHECIGS.COM> with Plaintiff. However,  
a showing of similarity combined with speculation regarding loss of control or damage to  
goodwill is insufficient to warrant a preliminary injunction under the binding authority of the  
Ninth Circuit. *See Herb Reed Enterprises*, 736 F.3d at 1250. (“[S]peculation on future harm . . .

1 does not meet the standard of showing ‘likely’ irreparable harm.”). Plaintiff has failed to carry  
2 its burden because it has not provided evidence demonstrating that consumers will likely  
3 assume that Plaintiff is associated with Defendants’ web sites and that such confusion will  
4 likely lead to reputational damage. The Court cannot grant Plaintiff’s Motions without such a  
5 showing.

6 Accordingly,

7 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for a Temporary Restraining Order  
8 (ECF No. 2) and Motion for Preliminary Injunction (ECF No. 5) are **DENIED without**  
9 **prejudice.**

10 **DATED** this 23rd day of January, 2015.

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14 Gloria M. Navarro, Chief Judge  
15 United States District Court  
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